



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,483	05/08/2001	Jack J. Johnson	113071.129-US1	3783
28089	7590	03/26/2007		
WILMER CUTLER PICKERING HALE AND DORR LLP			EXAMINER	
399 PARK AVENUE			OYEBISI, OJO O	
NEW YORK, NY 10022			ART UNIT	PAPER NUMBER
			3692	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	03/26/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/26/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

teresa.carvalho@wilmerhale.com
tina.dougal@wilmerhale.com
michael.mathewson@wilmerhale.com

Office Action Summary

Application No.

09/851,483

Applicant(s)

JOHNSON ET AL.

Examiner

OJO O. OYEBISI

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-51,53-67,69-71,82-88,90-103,118-121 and 123 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 46-51,53-67,69-71,82-88,90-103,118-121 and 123 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 01/08/2007.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Summary of The Applicant's Amendment

Independent claims 46 and 88 have been amended to more particularly point out and distinctly claim the subject matter which applicants regard as their invention. Dependent claim 50 and dependent claims 90-93 and 95-97 have been amended to conform with the amendments to independent claims 46 and 88, respectively. Dependent claims 52 and 89 have been cancelled without prejudice. Claims 46-51, 53-67, 69-71, 82-88, 90-103, 118-121, and 123 are pending in the application.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 46-51, 53-67, 69-71, 82-88, 90-103, 118-121, and 123 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al (Taylor hereinafter, US PAT:5,790,642).

Re claims 46. Taylor discloses a method for creating a bidding process among telecommunication providers in which a moderating computer collects bids from at least two telecommunication providers, processes the bids and designates at least one provider of the at least two telecommunication providers to provide telecommunication service (i.e., In general however, assemble bid request block 403 will generate a data

Art Unit: 3692

structure which includes all of the information required by the bidding service center, previously described in order to generate their respective bids, see col.7 lines 50-col.8 line 30);

a. in the Moderating computer, receiving the bids to provide telecommunication service over at least one route, or at least one route segment, on at least one telecommunication network, processing the bids to produce processed bid data,

b. in the Moderating computer, transmitting at least a portion of the first bidding data to at least a portion of the at least two telecommunication Providers;

c. in the Moderating computer, designating at least one Provider of the least two telecommunication providers as a first designated provider to provide telecommunication service over the at least one route or the at least one route segment, on at least one telecommunication network (i.e., After the bid request is transmitted, the originating service center then awaits arrival of the bids from the respective bidding service centers. First, the bid timer and bid counter (explained more fully later herein) are both initialized at block 405. The bid timer and bid counter are intended to inform the originating service center if and when it has all of the information from the other bidding centers which it needs to award the job to the lowest cost service center. Specifically, and by way of example, the originating service center should award the job to the lowest bidding service center when any of the following occurs (i) it has received the bids from all of the service centers; (ii) the maximum time to receive such bids has expired, even if all bids have not yet been received or (iii) any bid is received which is below a predetermined threshold which is

Art Unit: 3692

deemed low enough to be acceptable. Turning to decision point 406, the bid time is calculated to be the roundtrip time for the bid request to be transmitted from the originating center to all of the bidding centers, and for the bidding centers to return their bids to the originating center, see col.8 lines 1-65, also see col.9 lines 1-35),

d. in a computer adjunct to at least one telecommunication switch, performing at least a portion of the processing or communication functions of the moderating computer (see col.4 lines 10-50). Taylor does not explicitly disclose "storing the bids and the processed bid data in a data base of the Moderating computer as first bidding data." However, storing a billing record in a database, and processing said billing record are old and well known billing processes in telecommunication service world. Thus, it would have been obvious to incorporate these old and well billing processes in Taylor to make sure that telecommunication service providers are properly compensated for the services they produce.

Re claims 47-49. Taylor further discloses a method in which the processed bid data includes Provider designation data (i.e., Returning to FIG. 3, control is then transferred to parse bid request 304 in which the necessary data for costing the telephone call is extracted from the appropriate fields of bid request, see col.7 lines 26-30, also see "In general however, assemble bid request block 403 will generate a data structure which includes all of the information required by the bidding service center", see col.7 lines 60-65).

Re claim 50. Taylor further discloses a method in which the moderating computer, or a computer adjunct to the moderating computer transmits at least a portion of the

Art Unit: 3692

Provider designation data to at least one telecommunication switch or to a computer adjunct to the at least one telecommunication switch, for use in routing at least one call attempt (i.e., After the bid request is transmitted, the originating service center then awaits arrival of the bids from the respective bidding service centers.

First, the bid timer and bid counter (explained more fully later herein) are both initialized at block 405. The bid timer and bid counter are intended to inform the originating service center if and when it has all of the information from the other bidding centers which it needs to award the job to the lowest cost service center, see col.8 lines 1-20, also see co.3 lines 5-20, also see the abstract).

Re claim 51. Taylor further discloses a method in which the first designated Provider is a default Provider or a contract Provider (see col.10 lines 10-28).

Re claim 53. Taylor discloses a method for creating a bidding process among telecommunication providers in which a moderating computer collects bids from at least two telecommunication providers, processes the bids and designates at least one provider of the at least two telecommunication providers to provide telecommunication service (i.e., In general however, assemble bid request block 403 will generate a data structure which includes all of the information required by the bidding service center, previously described in order to generate their respective bids, see col.7 lines 60-66); and in the Moderating computer, receiving the bids to provide telecommunication service over at least one route, or at least one route segment, on at least one telecommunication network, processing the bids to produce processed bid data,

Art Unit: 3692

b. in the Moderating computer, transmitting at least a portion of the first bidding data to at least a portion of the at least two telecommunication Providers;

c. in the Moderating computer, designating at least one Provider of the least two telecommunication providers as a first designated provider to provide telecommunication service over the at least one route or the at least one route segment, on at least one telecommunication network

d. in the moderating computer, transmitting provider designation data to at least one telecommunication switch (see col.4 lines 10-50), and

e. in the at least one telecommunication switch, routing at least one call attempt in accordance with the provider designation data (i.e., After the bid request is transmitted, the originating service center then awaits arrival of the bids from the respective bidding service centers. First, the bid timer and bid counter (explained more fully later herein) are both initialized at block 405. The bid timer and bid counter are intended to inform the originating service center if and when it has all of the information from the other bidding centers which it needs to award the job to the lowest cost service center. Specifically, and by way of example, the originating service center should award the job to the lowest bidding service center when any of the following occurs (i) it has received the bids from all of the service centers; (ii) the maximum time to receive such bids has expired, even if all bids have not yet been received or (iii) any bid is received which is below a predetermined threshold which is deemed low enough to be acceptable. Turning to decision point 406, the bid time is

Art Unit: 3692

calculated to be the roundtrip time for the bid request to be transmitted from the originating center to all of the bidding centers, and for the bidding centers to return their bids to the originating center, see col.8 lines 1-65, also see col.9 lines 1-35). Taylor does not explicitly disclose "storing the bids and the processed bid data in a data base of the Moderating computer as first bidding data." However, storing a billing record in a database, and processing said billing record are old and well known billing processes in telecommunication service world. Thus, it would have been obvious to incorporate these old and well billing processes in Taylor to make sure that telecommunication service providers are properly compensated for the services they produce.

Re claims 54-55. Taylor further discloses a method in which the Provider designation data includes designation of at least one alternate Provider (i.e., "In general however, assemble bid request block 403 will generate a data structure which includes all of the information required by the bidding service center", see col.7 lines 60-65).

Re claim 56. Taylor further discloses a method including, in the moderating computer, transmitting at least a portion of the first bidding data to at least one end user or to at least one 10 reseller (see abstract).

Re claims 57 and 58. Taylor further discloses a method comprising, in the moderating computer, receiving decision rules from an administrator associated with the moderating computer or from an administrator associated with at least one subscribing switch or from at least one end user or from at least one reseller, processing at least a portion of the first bidding data and at least a portion of the decision rules, and designating at least the first designated Provider for the provision of telecommunication service (i.e., if one

Art Unit: 3692

or more of the bidding service centers submits a bid, the originating service compares the bids and awards the bids to the best bidder, see col.8 lines 60-65, also see col.8 line 17-col.9 line12, see fig.4a and 4b).

Re claim 59. Taylor further discloses a method in which the first designated Provider is a default Provider or a contract Provider (see col.10 lines 22-30).

Re claim 60. Taylor further discloses a method in which one or more adjunct computers perform at least a portion of the processing or communications functions of the moderating computer or the at least one telecommunication switch (see col.4 lines 10-50).

Re claim 61. Taylor further discloses a method in which the moderating computer or the at least one telecommunication switch is operated by a local access telecommunication service provider (see fig.1).

Re claim 62. Taylor further discloses a method comprising, in the moderating computer, processing the bids in accordance with bidding rules to produce processed bid data (see col.8 lines 17-66)

Re claim 63. Claim 63 recites similar limitations to claim 53 above and thus rejected using the same art and rejection as in claim 53.

Re claim 64. Taylor further discloses a method in which the first portion of the first switch data is the same as the second portion of the first switch data, or in which the first portion includes the second portion of the first switch data, or in which the first portion is included in the second portion of the first switch data (i.e., The information

Art Unit: 3692

may be transmitted back in the form of any convenient data structure, but ideally only occupies a few bytes and results in extremely minimal overhead, see col.5 lines 10-17)

Re claim 65. Taylor further discloses a method in which the moderating computer is a computer adjunct to the first subscribing switch (i.e., center 102, see fig.1)

Re claim 66. Taylor further discloses a method in which the first subscribing switch is operated by the moderating computer, or by an administrator associated with the moderating computer, or by at least one end user, or by at least one reseller, or by a local access telecommunication service provider (i.e., a plurality of service centers, see abstract, see col.4 lines 24-26, also see fig.1).

Re claim 67. Taylor further discloses a method comprising, in the first subscribing switch, receiving decision rules from an administrator associated with the moderating computer or from an administrator associated with the first subscribing switch or from at least one end user or from at least one reseller, processing at least the second portion of the first switch data and at least a portion of the decision rules, and designating at least the first designated Provider for the provision of telecommunication service (see fig.4a and 4b, also see col.8 line 17-col.9 line12).

Re claim 69. Taylor further discloses a method in which the first subscribing switch designates at least one alternate Provider (i.e., service centers can subcontract out the job by competitively bidding it among a plurality of local nodes, see col.10 lines 23-30).

Re claim 70. Taylor further discloses a method in which the moderating computer or the first subscribing switch transmits at least the first portion of the first switch data to at least a portion of the at least two telecommunication Providers subsequent to the first

Art Unit: 3692

subscribing switch designating the first designated Provider to provide telecommunication service (i.e., In general however, assemble bid request block 403 will generate a data structure which includes all of the information required by the bidding service center, previously described in order to generate their respective bids. Once the bid request is assembled, it is transmitted to the bidding service center at block 404. After the bid request is transmitted, the originating service center then awaits arrival of the bids from the respective bidding service centers, see col.7 line 60-col.8 line 3).

Re claim 71. Taylor further discloses a method in which at least a portion of the processing or communications functions of the moderating computer or the first subscribing switch is performed by one or more adjunct computers (see col.4 lines 10-50).

Re claims 82-83. Claims 82-83 recite similar limitations to claim 53 and thus rejected using the same art and rationale as in claim 53 supra.

Re claim 84. Claim 84 recites similar limitations to claim 64 and thus rejected using the same art and rationale as in claim 64 supra.

Re claim 85. Claim 85 recites similar limitations to claim 70 and thus rejected using the same art and rationale as in claim 70 supra.

Re claim 86. Claim 86 recites similar limitations to claim 50 and thus rejected using the same art and rationale as in claim 50 supra.

Art Unit: 3692

Re claim 87. Taylor further discloses a method in which at least a portion of the bidding process of Steps a. through f. is conducted in accordance with bidding rules (see col.8 lines 17-66).

Re claim 88. Claim 88 recites similar limitations to claim 53 and thus rejected using the same art and rationale as in claim 53 supra.

Re claims 90-91. Taylor further discloses a method in which the Provider designation data includes designation of the first designation provider (i.e., Returning to FIG. 3, control is then transferred to parse bid request 304 in which the necessary data for costing the telephone call is extracted from the appropriate fields of bid request, see col.7 lines 26-30, also see "In general however, assemble bid request block 403 will generate a data structure which includes all of the information required by the bidding service center", see col.7 lines 60-65).

Re claim 92. Claim 92 recites similar limitations to claim 50, and thus rejected using the same art and rationale as in claim 50 supra.

Re claim 93. Taylor further discloses a method in which the designating of the first designated Provider is performed by the moderating computer, by the at least one telecommunication switch , by the computer adjunct to the moderating computer, or by the computer adjunct to the at least one telecommunication switch (i.e., if one or more of the bidding service centers submits a bid, the originating service compares the bids and awards the bids to the best bidder see col.8 lines 60-65, also see col.8 line 17-col.9 line12, see fig.4a and 4b)

Art Unit: 3692

Re claim 94. Taylor further discloses a method in which at least a portion of the processed bid information is distributed to at least a portion of the at least two telecommunication Providers subsequent to the designating of the first designated Provider to provide telecommunication service (i.e., In general however, assemble bid request block 403 will generate a data structure which includes all of the information required by the bidding service center, previously described in order to generate their respective bids. Once the bid request is assembled, it is transmitted to the bidding service center at block 404. After the bid request is transmitted, the originating service center then awaits arrival of the bids from the respective bidding service centers, see col.7 line 60-col.8 line 3, also see fig.4a element 414, also see fig.4b element 416).

Re claim 95. Claim 95 recites similar limitations to claim 87, and thus rejected using the same art and rationale as in claim 87 supra.

d in accordance with bidding rules.

Re claim 96. Taylor further discloses a method in which each of Steps a. - f. is accomplished by means of computer processing (see fig.1).

Re claim 97. Claim 97 recites similar limitations to claim 57, and thus rejected using the same art and rationale as in claim 57 supra.

Re claims 98-101. Taylor discloses the generation of a bid request data, transmission of the request data, and the reception of said request data (see fig.3, also col.4 line 60-col.5 line10), but discloses not explicitly how this bid request data is generated i.e., Taylor does not explicitly disclose a method in which the Buyer submits the request to a moderating computer by entering request data into a first software defined template

Art Unit: 3692

residing on a computer bulletin board system, or on a website. However, data entry into a software template on a website is old and well known in the art. Thus it would have been obvious to one of ordinary skill in the art to incorporate what is old and well into Taylor to provide a remote platform for buyer to put in their request.

Re claims 102-103. Taylor discloses a method in which a moderating computer, or a computer adjunct to the moderating computer, distributes at least a portion of the processed bid information to at least a portion of the at least two telecommunication Providers (i.e., In general however, assemble bid request block 403 will generate a data structure which includes all of the information required by the bidding service center, previously described in order to generate their respective bids. Once the bid request is assembled, it is transmitted to the bidding service center at block 404. After the bid request is transmitted, the originating service center then awaits arrival of the bids from the respective bidding service centers, see col.7 line 60-col.8 line 3, also see fig.4a element 414, also see fig.4b element 416), except for posting at least a portion of the processed bid information on a computer bulletin board system or on a website accessible to at least a portion of the at least two telecommunication Providers.

However, data entry into a software template on a website and posting of said data online is old and well known in the art. Thus it would have been obvious to one of ordinary skill in the art to incorporate what is old and well into Taylor to provide a remote platform for providers to see the outcome of their bidding.

Re claims 118-121, and 123. Taylor further discloses a Moderator including means for distributing the processed request to at least a portion of the plurality of

Art Unit: 3692

telecommunication Providers (i.e., In general however, assemble bid request block 403 will generate a data structure which includes all of the information required by the bidding service center, previously described in order to generate their respective bids. Once the bid request is assembled, it is transmitted to the bidding service center at block 404. After the bid request is transmitted, the originating service center then awaits arrival of the bids from the respective bidding service centers, see col.7 line 60-col.8 line 3, also see fig.4a element 414, also see fig.4b element 416) except for posting the processed request on a computer bulletin board system or on a website accessible to at least a portion of the plurality of telecommunication Providers. However, data entry into a software template on a website and posting of said data online is old and well known in the art. Thus it would have been obvious to one of ordinary skill in the art to incorporate what is old and well into Taylor to provide a remote platform for providers to see the outcome of their bidding.

Response to Arguments

3. Applicant's arguments filed on 12/22/06 have been fully considered but they are not persuasive. The Applicant argues in substance that the primary reference of record, Taylor, fails to teach or suggest transmitting Provider designation data to a telecommunication switch, or to a computer adjunct to a telecommunication switch, for use in routing at least one call attempt. Contrary to the applicant's argument, the examiner asserts that Taylor discloses the transmission of bid request data to the originating service center, the data needed for the job to be awarded to the lowest cost service center (i.e., provider) (see col.8 lines 1-25). Thus, the transmitted bid request

Art Unit: 3692

data taught in Taylor includes the provider designation data disclosed by the applicant. The examiner asserts that, in addition to some other information, the bid request data includes the provider designation data since the bid request data comprises all the necessary information for costing the call attempt and for assigning the call attempt job to the least expensive provider/call service center. How else would the originating center assign and route the call attempt job to the least expensive provider/call service center, if the bid request data received by the original center does not include the provider designation data?

The applicant further argues in substance that Taylor fails to teach or suggest performing at least a portion of the processing or communications functions of a moderating computer in a computer adjunct to at least one telecommunication switch. Contrary to the applicant's assertion, Taylor discloses a packet switched or other network, point-to-point lines, packet switching, and public telephone systems, as well as any other communications media - see col.4 lines 35-40, all these constitute a moderating computer in a computer adjunct to at least one telecommunication switch disclosed by the applicant.

The applicant further argues that Taylor fails to teach or suggest transmitting Provider designation data to at least one telecommunication switch. The examiner asserts that since the bid request information includes the provider designation data and since this data is transmitted to the originating center for selecting the least expensive provider. Thus, the original center disclosed by Taylor constitutes the telecommunication switch disclosed by the applicant.

Art Unit: 3692

All in all, the applicant further argues that Taylor fails to teach or suggest transmitting processed bid information to at least one telecommunication switch. Again, The examiner asserts that since the bid request information includes the provider designation data and since this data is transmitted to the originating center for selecting the least expensive provider. Thus, the original center disclosed by Taylor constitutes the telecommunication switch disclosed by the applicant.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OJO O. OYEBISI whose telephone number is (571) 272-8298. The examiner can normally be reached on 8:30A.M-5:30P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RICHARD E. CHILCOT can be reached on (571)272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3692

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


FRANTZY POINVIL
PRIMARY EXAMINER
AU 3692